FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE.

WRIT PETITION NO. 7289 OF 2004.

Office Notes,Office Memoranda of Coram, appearnaces,Courts's orders or directions and Registrar's orders.	:	Court's or Judge's orders

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Shri V.G. Mujumdar for the petitioner.
Shri S.G. Karandikar for the respondents.

CORAM: V.C.DAGA,J.
DATED: 6-9-2004.

P.C.:

. On the motion made by the learned Counsel for the petitioner, he is allowed to delete reference to Article 226 of the Constitution of India. Accordingly, he has amended the petition and deleted reference to Article 226 of the Consolation.

2. Heard rival parties. Perused petition.

3. Having heard and examined rival pleadings and the concurrent finding of facts recorded by both the Courts below, I do not see any reason to interfere with the impugned order.

4. The landlord is the owner of dilapidated structure partly demolished by the Corporation. In this dilapidated structure 2 rooms left to be demolished are in possession of the petitioner-tenant.

5. The landlord is staying in adjoining premises on monthly leave and licence basis. He is seeking possession of the 2 room premises as he intends to construct new house for his own use and occupation.

6. Learned Counsel for the petitioner contended that the landlord has no finance to construct his house or at any rate there is no material to infer availability of finance with him. He, thus contends that landlord failed to prove his bonafide need. The contention has no force. Considering present economic scenario and availability of finance available in the market at reasonable rate of interest, it is not difficult for anybody to get finance from any financial institution for construction of the house. The bonafide need has been proved by the respondent-landlord.

7. In the above view of the matter, I do not think any case is made out to interfere with the impugned order. Writ Petition is thus dismissed in limine with no order as to costs.

8. At this stage, learned Counsel for the petitioner sought time to vacate suit premises. He has also filed undertaking of the petitioner to seek period of one year to vacate the suit premises. He has also stated in the undertaking that he will handover vacant and peaceful possession to respondent No.1 on the expiry of period that may be granted by this Court. He has also undertaken in the said undertaking, not to create any third party interest or induct any third person in the premises in any manner whatsoever. He has made it clear that he is staying in the suit premises with his married daughter and grand children. He also submits that without any demur he will vacate suit premise. The undertaking dated 6.9.2004 furnished by the petitioner thus can be accepted.

9. Considering the submission or prayer made, 6 months period is granted to the petitioner to vacate the suit premises on the terms and conditions incorporated in paras 3 and 4 of the undertaking. The same is taken on record and marked X for identification.

10. So far as payment of use and occupation charges of the premises is concerned, the petitioner shall pay Rs. 300/- (three hundred) per month to the respondent No.1, to be paid on or before 5th day of each month. In the event of any 2 defaults, decree holder shall be free to execute the decree irrespective of the period granted to vacate the suit premises under this order.

8. Parties to act on copy of this order duly authenticated by the Court Associate/P.A.

. Certified copy expedited.